

NEPA COMPLIANCE RECORD
CATEGORICAL EXCLUSION (CX)
Tucson Field Office

AZ-420-2005-023

Serial/Case File No. AZA 32153

Proposed Action Title/Type: Land use permit renewal and modifications under 43 CFR 2920, for Humane Borders water stations located outside and inside the Ironwood Forest National Monument (IFNM).

Location of Proposed Action: Silverbell West and Cocoraque Butte topographic maps; located at:

Gila and Salt River Meridian, Arizona

T. 12 S., R. 8 E.,
sec. 6, NWSW;
sec. 18, SESW.

T. 14 S., R. 10 E.,
sec. 11, SWSW.

Description of Proposed Action: The Humane Borders organization requests to continue their placement and servicing of water stations on public lands at areas where high foot traffic is occurring by undocumented immigrants. A water station is approximately 2 feet by 3 feet in dimensions and is comprised of a 60 gallon plastic water container with a spring loaded faucet placed on a metal stand; the stand supports a narrow aluminum 30 foot flag pole. The previous land use authorization granted Humane Borders 4 sites, but they are now requesting authorization for the use of 3 sites, which includes one previously authorized site known as the Trico site located within the IFNM, and adding 2 new sites located in the area known as Little Ranch which lies outside and adjacent to the IFNM. Humane Borders is also requesting modification of the previous authorization to increase the number of water containers at each site to 3 instead of 2, changing the stations' servicing and inspections time to every other day instead of daily, and changing the permitting use to year round rather than seasonal.

Maps and photos of the proposed sites are attached.

Applicant: Humane Borders, Inc., a non-profit organization

PART I: PLAN CONFORMANCE REVIEW. This proposed action is subject to the following land use plan: Phoenix Resource Management Plan, December 1988; and subject to current interim management policy for BLM National Monuments and BLM National Conservation Areas (Instruction Memorandum No. 2002-008) for the Ironwood Forest National Monument designated by the President's Proclamation June 9, 2000.

The proposed action has been reviewed and determined to be in conformance with this plan (43 CFR 1610.5, BLM MS 1617.3).

Specialist Signature

Date

PROGRAM CONSULTATION & COORDINATION/CX CHECKLIST
BUREAU OF LAND MANAGEMENT
TUCSON FIELD OFFICE

PART II: CATEGORICAL EXCLUSION REVIEW

NEPA #: AZ-420-2005-023

ASSIGNMENT AND REVIEW

Subactivity: 1430
Case/Project No.: AZA 32153

Project Name: Humane Borders, Inc., a non-profit organization
Location (legal description): T. 12 S., R. 8 E., Sec. 6 & 18; T. 14 S., R. 10 E., Sec. 11.
NLCS Unit: Ironwood Forest National Monument
Quad Name: Silverbell West/
Project Lead: Susan Bernal, Realty Specialist

Draft Review: Unit Manager/Supervisor: Steven Cohn Date: April 15, 2005

Technical Review:

Exception	NAME	EXCEPTION	SIGNATURE	DATE
Applies? Yes No				
() ()	Bill Auby	(1) Have Significant adverse effects on public health or safety?		
() ()	Francisco Mendoza	(2) Have adverse effects on such unique geographic characteristics as historic or cultural resources, parks, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains or ecologically significant or critical areas including those listed on the Department's National Register of Natural Landmarks.		
() ()		(3) Have highly controversial environmental effects.		
() ()	Bill Auby	(4) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
() ()	Dan Moore	(5) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		
() ()	Francisco Mendoza	(6) Individually Insignificant, but cumulatively significant effects.		
() ()	Max Witkind	(7) Have adverse effects on properties listed or eligible for listing on the National Register of Historic Places.		
() ()		(8) Have adverse effects on species listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.		
() ()		(9) Require compliance with EO 11988, 11990 (Protection of Wetlands) or the Fish and Wildlife Coordination Act.		
() ()	Dan Moore	(10) Threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.		

Final Review:

Unit Manager/Supervisor: _____ Date: _____

Environmental Coordinator: _____ Date: _____

Field Manager: _____ Date: _____

This proposed action qualifies as a categorical exclusion under 516 DM 6, Appendix 5.4., E-19. It has been reviewed to determine if any of the exceptions described in 516 DM 2, Appendix 2, apply.

The action does not have significant adverse effects on public health and safety nor does the action adversely affect such unique geographic characteristics as historic or cultural resources, parks, recreation, or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains, or ecologically significant or critical areas, including those listed on the Department's National Register of Natural Landmarks. The action does not have highly controversial environmental effects nor have highly uncertain environmental effects or involve unique or unknown environmental risk nor does it adversely affect a species listed or proposed to be listed on the list of endangered or threatened species. It does not establish a precedent for future action or represent a decision in principle about a future consideration with significant environmental effects or related to other actions with individually insignificant but cumulatively significant environmental effects. The proposed action does not adversely affect properties listed or eligible for listing in the National Register of Historic Places or threaten to violate a Federal, State, local or tribal law or requirements imposed for the protection of the environment or which require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands) or the Fish and Wildlife Coordination Act.

Mitigation Measures/Stipulations: See Attached Exhibit "A"

Part III: DECISION. I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed action does not conflict with major land-use-plans and will not have any major adverse impacts on other resources. Therefore, it does not represent an exception, and is categorically excluded from further environmental review. It is my decision to implement the project, as described, with the mitigation measures attached.

Authorized Official: _____ Date: _____

Exhibit “A”

Special Stipulations

Humane Borders, Inc.

AZA 32153

In addition to the standard stipulations marked on the permit, the following Special Stipulations will apply:

1. This permit only authorizes the use of federal lands administered by the Bureau of Land Management (BLM), Tucson Field Office (TFO), at 3 (three) locations within or adjacent to the Ironwood Forest National Monument. It does not authorize the use of private lands, or lands owned or managed by other federal, state, tribal or local governmental agencies where BLM has no authority to issue such authorization.

2. Humane Borders must maintain a minimum of \$10,000,000.00 (ten million dollars) per occurrence worth of general liability insurance coverage, in a policy form acceptable to the Authorized Officer, for property damage, personal injury and comprehensive public liability resulting from action taken or caused by Humane Borders under this permit. The United States shall be named as an additional insured on the Certificate of Insurance. Humane Borders must furnish proof of insurance to the Authorized Officer in the form of a Certificate of Insurance prior to execution of the permit. Humane Borders must maintain the required insurance coverage for the life of the permit.

3. The period of use under the Land Use Permit is to be from the date of permit approval through twelve months. Under extenuating circumstances (such as prolonged drought or high temperatures), Humane Borders may apply to the Authorized Officer 30 days in advance to extend this time period.

4. Humane Borders is responsible for the training, monitoring, safety and security of its individual employees and volunteers including notifications about approaching individuals on BLM-administered lands, biohazards or other safety precautions, off-road driving conditions, etc.

5. Any cultural and/or paleontological resources (historic or prehistoric site or object) discovered by the permittee, or any person working on its behalf, on BLM-administered land must be immediately reported to the Authorized Officer. Humane Borders shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the Authorized Officer. An evaluation of the discovery will be made by the Authorized Officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. Humane Borders will be responsible for the cost of evaluation, and the Authorized Officer will make any decision as to proper mitigation measures after consulting with the permittee.

6. While on BLM-administered lands, Humane Borders will notify Tucson BLM Law Enforcement within two hours of any encounters with the U.S. Border Patrol or calls to emergency medical service providers (e.g., Pima County Emergency Services, etc.); any transportation of individuals for medical assistance; and any discovery of deceased persons or human remains. Upon receipt of any information under this paragraph, BLM Law Enforcement will make all appropriate and necessary additional notifications to the U.S. Border Patrol and other responsible governmental agencies.

7. No commercial filming or photography is permitted. Humane Borders may not issue any news releases concerning the water stations without the express approval of the Authorized Officer. The BLM requires notification of any media coverage that Humane Borders becomes aware of which discusses or mentions the permitted water stations. Any photographs taken by Humane Borders must only be used for internal record keeping or internal training.

8. At each water station location, no vegetation will be trimmed, cleared or removed; no holes or pits will be excavated for footings, wildlife will not be harassed or harmed; and trash or debris, for which Humane Borders is responsible, will be removed. Trash and refuse collected by Humane Borders will be removed from the site to appropriate dumpsters or refuse sites.

9. The installation of water stations will be coordinated with BLM staff at the Tucson Field Office to ensure avoidance of sensitive areas and conformance with BLM regulations, policies, and planning. Arrangements with the BLM staff shall be made no less than 48 hours in advance of proposed installation activities.

10. Humane Borders will maintain no more than three 60-gallon tanks at each water station without further approval of the Authorized Officer. Humane Borders will provide GPS coordinates from each water station to the Tucson Field Office, Pima County Sheriff's Office, and the Tucson Sector for the U.S. Border Patrol.

11. For the water station locations approved, Humane Borders will provide every other day service and field inspections to ensure compliance with the following standards: No tanks are empty over a 24-hour period; water quality standards are tested and maintained equivalent to all applicable federal, state, and local governmental water quality standards; tanks will be sealed and tamper proof and replaced immediately if needed due to tampering, punctures or similar flaws. The tanks authorized by this permit will not exceed 60 gallons each without prior approval of the Authorized Officer. A schedule of planned maintenance and servicing will be provided to the BLM.

12. BLM may immediately cancel the permit if tampering or sabotage occurs to one or more water stations. The Tucson Field Office will cancel the permit if so directed by the Arizona State Office or the Washington Office, BLM based on new policies, regulations, or advice of the Solicitor.

13. The permit may not be transferred or assigned without written consent of the Authorized Officer.

14. Humane Borders will comply with all applicable federal, state, and local governmental public health and sanitation standards and codes.

15. Installation of water stations without prior written authorization from the Authorized Officer is not allowed and may be considered a trespass against the United States.

16. All flags, flagpoles, rebar, and water tanks shall be removed within 30 days after expiration of this permit, cancellation of the permit by BLM, or return of the permit by Humane Borders prior to expiration of the term. The Authorized Officer shall be notified upon completion of removal activities.

17. No cross-country access is authorized outside of the designated sites, as identified in this permit. All approved sites (see attached map) are located within or adjacent to the Ironwood Forest National Monument, and are under the jurisdiction of the Tucson Field Office. All water station sites shall be accessed via existing routes of travel only. In these areas, vehicles may pull off of existing roads no more than 10 feet from the edge of the roadbed. Water stations outside of this 10-foot zone shall be installed and maintained by foot travel.

18. The Authorized Officer may suspend or terminate this permit in whole or in part when, in his or her judgment, unforeseen conditions and/or circumstances arise which result in the approved terms and conditions being inadequate to protect the public health, safety and welfare, or to protect the environment.

19. As permittee of AZA 32153, Humane Borders agrees, without limitation or restriction, to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C., 9601 et seq., or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6091 et seq., on BLM-administered lands subject to this permit. This agreement applies without limitation to whether a release is caused by the permittee, its agent, or unrelated third parties.

20. Approval of this permit is not to be construed as approval or authorization of any action by the permittee, or its officers, agents or employees, to violate any federal laws or regulations, including U.S. Immigration and Naturalization laws.

Authorized Officer: _____
Humane Borders, Inc.

Date: _____